

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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In re: Vitamins Antitrust Litigation

This document relates to:

Nutra-Blend, L.L.C. v. F. Hoffmann-La
Roche Ltd et al., 99CV3329 (W.D. Mo.)

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MDL No. 1285

Misc No. 99-0197 (TFH)

FILED

MAR 17 2000

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

[Proposed]

STIPULATED ORDER REGARDING BRIEFING SCHEDULE ON
RESPONSES TO THE ABOVE-REFERENCED COMPLAINT

This Stipulation and Proposed Order is made with reference to the following facts:

Plaintiff in Nutra-Blend, L.L.C. v. F. Hoffmann-LaRoche Ltd et al., 99CV3329 (W.D. Mo.) (" the above-captioned case") has effected service on Defendant Rhône-Poulenc S.A. ("RPSA");

On July 29, 1999, this Court issued a ruling that "the relevant forum" for personal jurisdiction under the Clayton Act is "the United States as a whole." On January 11, 2000, the D.C. Circuit Court of Appeals in GTE New Media Services Inc. v. BellSouth Corporation, No. 99-7097, addressed the requirements for jurisdiction under Section 12 of the Clayton Act.

RPSA contends that personal jurisdiction under the Sherman Act must be measured by its "local contacts" with the transferor forum and not by its contacts with the United States as a whole ("national contacts"); and

The parties believe that it would be more efficient to limit their briefing at this time to the effect of GTE and the question of whether local contacts or national contacts are the appropriate test for jurisdiction.

Accordingly, IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties, that:

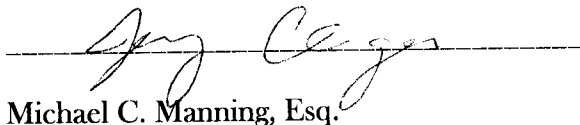
1. Except as expressly set forth below, RPSA will be deemed to have filed a motion to dismiss the above-captioned case on the following legal issues: (1) whether personal jurisdiction should be measured by local contacts with the transferor forum or national contacts with the United States as a whole and, (2) if national contacts are the appropriate test, whether RPSA has sufficient contacts with the United States as a whole to subject it to personal jurisdiction in the above-captioned case. RPSA hereby incorporates its previous briefs on this issue, filed in Cargill, Inc., et al. v. F. Hoffmann-La Roche Ltd, et al., 99C5167 (N.D. Ill.); The Quaker Oats Company et al. v. BASF AG et al., 99CV1972 (D. D.C.); Southern States Cooperative, Inc. et al. v. Akzo Nobel, Inc. et al., 5:99CV00070 (W.D. Va.); Cactus Operating, Ltd. et al. v. Akzo Nobel, Inc. et al., 2:99CV288-J (N.D. Tx.); Tyson Foods, Inc. et al. v. Akzo Nobel, Inc. et al., 99CV5134 (W.D. Ark.); and Marshall Durbin Farms, Inc. et al. v. Akzo Nobel, Inc. et al., 2:99CV0152 (N.D. Ga.).
2. If the Court determines that the relevant forum is the United States as a whole, and that RPSA has sufficient contacts to subject it to the personal jurisdiction of this Court, RPSA will file an Answer to the complaint in the above-captioned case within 20 days of the Court's ruling.¹
3. If, on the other hand, this Court finds that "local contacts" are the relevant forum in the above-captioned case, then the parties will agree upon a briefing schedule to

¹ By agreeing to file an answer to the complaint in the above-captioned case within 20 days of a ruling by the Court that RPSA has sufficient contacts with the United States as a whole, RPSA does not waive any rights it may have to appeal such a ruling or any rights it may have to seek a stay of its obligation to answer, pending any such appeal.

address the question of whether RPSA has the requisite local contacts to support personal jurisdiction in that case.

This stipulation is not intended to waive and does not waive any rights of plaintiffs or defendants, or any defense that the defendants may have including, but not limited to, the defense of insufficiency of service of process or lack of personal jurisdiction.

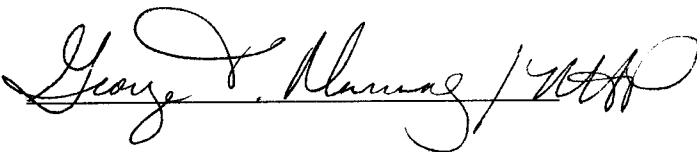
Respectfully submitted,



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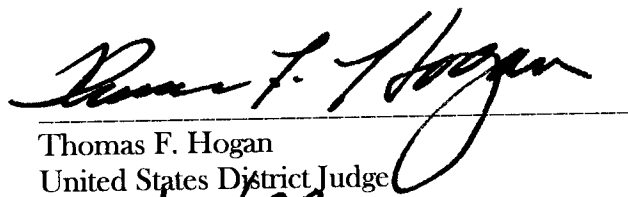
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SO ORDERED:


Thomas F. Hogan
United States District Judge
3/17/00